

**JOURNAL OF THE PROCEEDINGS
OF THE
BOARD OF COMMISSIONERS
OF COOK COUNTY**



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**DAVID ORR
COUNTY CLERK**

**JOURNAL OF THE PROCEEDINGS
OF THE
BOARD OF COMMISSIONERS
OF COOK COUNTY**

**DECEMBER 19, 2005
(Special Meeting)**



JOHN H. STROGER, JR., PRESIDENT

JERRY BUTLER
FORREST CLAYPOOL
EARLEAN COLLINS
JOHN P. DALEY
ELIZABETH ANN DOODY GORMAN
GREGG GOSLIN
CARL R. HANSEN
ROBERTO MALDONADO

JOSEPH MARIO MORENO
JOAN PATRICIA MURPHY
ANTHONY J. PERAICA
MIKE QUIGLEY
PETER N. SILVESTRI
DEBORAH SIMS
BOBBIE L. STEELE
LARRY SUFFREDIN

**DAVID ORR
COUNTY CLERK**

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JOURNAL OF THE PROCEEDINGS
OF THE
BOARD OF COMMISSIONERS
OF COOK COUNTY

Special Meeting of Monday, December 19, 2005

**11:00 A.M.
Central Standard Time**

COOK COUNTY BOARD ROOM, COUNTY BUILDING

Board met pursuant to the following call:

December 13, 2005

The Honorable David Orr
Cook County Clerk
69 West Washington Street
Chicago, IL 60602

Dear Clerk Orr:

Pursuant to the authority vested in me I hereby call a Special Meeting of the Board of Commissioners of Cook County for Monday, December 19, 2005, at the hour of 11:00 A.M. in the County Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois, at which meeting I will present the Message of the President to the Board of Cook County Commissioners submitting the Executive Budget for Fiscal Year 2006 and various other revenue ordinances will be presented.

Very truly yours,

JOHN H. STROGER, JR., President
Cook County Board of Commissioners

JOURNAL OF PROCEEDINGS FOR DECEMBER 19, 2005

COPY OF LETTER SENT TO ALL COMMISSIONERS

December 13, 2005

Honorable President and
Members of the Cook County
Board of Commissioners

Ladies and Gentlemen:

John H. Stroger, Jr., President of the Board of Commissioners of Cook County has directed me to call a Special Meeting of the Board of Commissioner of Cook County on Monday, December 19, 2005 at 11:00 A.M. in the County Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois, at which meeting the Message of the President to the Board of Commissioners submitting the Executive Budget for Fiscal Year 2006 and various other revenue ordinances will be presented.

Very truly yours,

David Orr
County Clerk

* * * * *

This is to certify that a copy of the above notice was hand delivered and personally addressed to each Member of the Board of Cook County Commissioners at their home address and was deposited in the United States Mail on December 13, 2005.

DAVID ORR, County Clerk

* * * * *

The following Legal Notice appeared in the Chicago Tribune Newspaper on Thursday, December 15, 2005.

LEGAL NOTICE

John H. Stroger, Jr., President of the Board of Commissioners of Cook County, has directed me to call a Special Meeting of the Board of Commissioners of Cook County on Monday, December 19, 2005, at the hour of 11:00 A.M. in the County Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois, at which meeting the Message of the President to the Board of Cook County Commissioners submitting the Executive Budget for Fiscal Year 2006 and various other revenue ordinances will be presented.

Very truly yours,

DAVID D. ORR, County Clerk and Clerk
of the Board of Commissioners of Cook County, Illinois

December 15, 2005

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OFFICIAL RECORD

President Stroger in the Chair.

CALL TO ORDER

At 11:00 A.M., being the hour appointed for the meeting, the President called the Board to order.

QUORUM

County Clerk David Orr called the roll of members and there was found to be a quorum present.

ROLL CALL

Present: Butler, Claypool, Collins, Daley, Gorman, Goslin, Hansen, Maldonado, Murphy, Moreno, Peraica, Silvestri, Sims, Steele, Suffredin, Stroger -16.

Absent: Quigley -1.

BUDGET MESSAGE OF THE PRESIDENT

to the

BOARD OF COMMISSIONERS FOR THE FISCAL YEAR 2006

December 19, 2005

Good morning Chairman Daley, Commissioners, civic and community leaders. As you know, I have been a member of this board for the past 35 years. In that capacity, I have had the opportunity to watch this government evolve into what it is today.

I have watched the transfer of the courts from each municipality to the County, and watched the resulting consolidated court system evolve into one of the largest in the world.

I have watched the construction of Division Eleven at the jail as well as the construction of the Boot Camp. I have been involved with the Duran case since its inception. And now in this post-September 11th world, this government is also charged with homeland security matters and the responsibility of protecting our residents.

I have watched real estate develop throughout this county. In 1990, we assessed 1.5 million parcels of property. We now assess more than 1.7 million parcels.

I have watched the development of what is now one of the largest public health systems in the nation. It wasn't very long ago that we took care of people's primary care needs in our emergency rooms, despite the added expense. But we knew there was a more efficient way so we built the ambulatory clinic system. It makes no sense from both a medical and economic perspective to treat things like colds and flu in the emergency room yet for years that was the only option available. The clinic system is cheaper and it is clearly the best way to deliver primary care services to our patients. Last year, there were more than one million visits to our clinics.

The need to replace the old Cook County Hospital was recognized 50 years ago. But it wasn't until 1990, that the political will existed in this room to move forward. Despite our desire to build a larger facility, the State of Illinois approved a 464 bed hospital. The result is a shortage of general medicine beds, an issue we will need to address in the coming years.

I tell you this for a number of reasons. Our history is an important part of the evolution of this government. Without perspective on where we have been, we can not move forward. And over the course of the past thirty-five years, our mission has not changed. What has changed is the demand for our services.

There are six million more Americans without health insurance today than there were just ten years ago. Twenty percent of the people living in Cook County are either uninsured or under-insured. Visits to the Bureau of Health increased by nearly two hundred thousand last year alone.

Prescriptions are probably the fastest increasing service we provide. In 2003, we filled 2.2 million prescriptions. In 2005, we filled nearly 3.8 million. We have made a number of changes in the past year to improve wait times and I am pleased to announce that in the next several months, we will break ground on a new outpatient pharmacy at Provident Hospital.

Demand for jail space has also increased. In 1988, the average daily population at the jail was just over 5,000. Today, that number is roughly 9,000. Each year, we provide more than one million meals at Cook County Jail alone.

This increased demand for services is not unique to Cook County Government. Nor is the need for additional resources. Many local governments rely solely on property taxes to fund their operations and until we find a more equitable funding source for our schools, this will continue to burden not just the residents of Cook County but the residents of Illinois.

When I took office in 1994, I recognized that property owners were already funding a disproportionate share of villages, schools, parks and other special units of governments. I convened a group of financial experts to study this trend and to make recommendations to lower this reliance in the only government I had control, Cook County.

Our financial strategies from job elimination to revenue diversification have served us well. They have allowed us to keep the property tax levy stable. And that has allowed the tax rate to be reduced by 40% since 1995 which has saved Cook County taxpayers 1.8 billion dollars over the course of my administration.

This government is a service government. And we provide those services with less than 10% of the average property tax bill, a true distinction for the second largest county in the country. We saw the need to cut expenses and not rely on property taxes to fill the gaps. We even left the natural growth on the table, something few, if any, other governments can say.

Government, like any other service provider, is an expensive operation but its operations are important. County governments are no different. They are, in fact, critical to the lives of millions of people. Our challenge, in the wake of decreasing resources has been to become more efficient in the delivery of services.

As I stated earlier, governments are facing the challenge of providing increased services with shrinking resources. This is partly due to the condition of the economy. There is a trickle down effect. When a private company chooses to lay off 2,000 workers, they can positively affect their bottom line while shifting responsibility to County government to provide health care.

When companies like United Airlines stop pension payments and people are living longer, the demands on our health system will only continue to grow. And as medicine turns to less invasive treatments and therapies, we are experiencing increased demands for pharmaceuticals.

Add to this scenario the federal government's reduction in medicaid reimbursements and you truly have a crisis in healthcare. We can not continue to shoulder this burden without additional resources at the very time more and more people are without insurance.

These are the effects of a challenged national economy. It made economic sense for GM to move its manufacturing plants to Canada with its national healthcare system to avoid the increasing costs of employee healthcare, a cost that has escalated for us by nearly one hundred million dollars in just the last ten years. Even with that decision, GM recently announced 30,000 layoffs and the closing of several manufacturing plants. While these cost-cutting strategies may work with cars, they will not work with the lives we touch every day. We can not shut our emergency room down or turn the lights out in a division at the jail and send folks home.

If we could do these things, neither our census nor our jail costs would be so high. To address these issues, we have enacted strategies to both lower the jail population and relieve our taxpayers of the financial burden that more rightfully belongs to the State of Illinois.

We have implemented programs like the credit card bail program which allows individuals to bond out in a more timely manner. We are currently expanding the credit card program to suburban police departments as well as beginning to accept them for taxes and fees. We have pushed legislation to secure funding through the state for parole holds.

We have added millions of dollars in technology to improve operations. For instance, the new patient record system allows doctors to access the records of any patient in the system at any location and in consultation with another physician who may be at another hospital or clinic.

We are investing millions in technological advancements in the area of Homeland Security. The County will align all 129 municipalities to ensure that communication is seamless and without borders regardless of where in our area an incident may occur. Our efforts in Homeland Security are a perfect example of the new demands that are being placed on us and while the funding coming from the Federal Government provides for equipment and technology, it does not provide for staffing and so once again, our employees are truly doing more with less.

Our public safety system has taken great advantage of technology, especially in corrections. While we have built Division Eleven which was designed for minimal guard/inmate interaction, we have used alternative detention programs to reduce overcrowding. The electronic monitoring program is one of our most successful innovations. We have saved millions of dollars that would have otherwise been spent on housing detainees or building new divisions.

Other programs such as SWAP, pre-release and the Day Reporting Center have been applauded throughout the justice system and certainly assist in lowering the costs of housing people 24-7. The American University Study, conducted by Professor Trotter noted that these programs are responsible for moving people out of our jail faster than ever before. And the numbers demonstrate that our strategies are working. The daily population last Thursday was 8,968, the lowest for as long as anyone can remember.

Our costs in this area continue to rise. To offset these costs, we are continuing to work with the state to get medicaid reimbursement for detainee healthcare. And with the 1.9 million dollars received in November, we have collected 38 million dollars over the past ten years through the United States Department of Justice for housing undocumented aliens.

But the challenges in our criminal justice system continue. At a cost of \$14 million last year, we added 283 new positions in corrections. The staffing study, completed by Mike Mahoney, indicated that absent other innovations and large scale changes in the corrections populations, an additional 668 corrections officers are required to adequately staff Cook County Jail. If we did this at once, it would cost approximately \$36 million dollars. Obviously, we can not hire, train and pay for this in one budget year, it simply adds to the challenges we will face for many years to come. We have submitted the Mahoney report to the Federal Court and will continue to work with them to systematically address the consent decree.

Everyone in this room should be proud of our hallmark accomplishment this year, the opening of the new domestic violence courthouse, another facet of our public safety responsibilities. This project came in on time and under budget and reflects my commitment to professionally and cost-effectively manage our capital projects while addressing the very sensitive needs of the court and its users. For many years to come, this courthouse will be a symbol of what this board can accomplish when we work together.

The end result to everything I have laid out is that we have a critical mission with a very human element to it. We cannot, however, provide service without resources. I think we have seen this very same resource issue play itself out with the City of Chicago, the CTA and any number of municipalities. And unlike many other units of government, we have met our needs without turning to the property taxpayers.

If County government didn't hire another employee, care for another patient or house one more inmate than it did last year, our costs would rise by nearly 100 million dollars. County government is not exempt from increased food and medical supply costs nor is it exempt from increased labor costs despite years of reducing the payroll in the offices under my control. We are affected by these economic issues just like anyone else.

To avoid widespread service cuts, we have made great strides in bringing a higher level of efficiency to this government. One of the main arguments for the construction of a new hospital was that of reducing costs. We were pouring millions into an 1835 structure that was not suitable for health care just to keep our license and remain building code compliant. By developing a community clinic system that strategically placed clinics in areas of high need, we have lowered inpatient days for those who would wait until their illnesses required hospitalization. And we are now providing our patients with dignified healthcare in a state-of-the-art hospital, something many of us take for granted.

Year after year, we have made the difficult decisions to ensure that this government does not cut service. But services require resources and I fully recognize that resources are scarce. While other governments like the schools and parks rely primarily on property taxes, only 23% of the County's revenues are property tax driven. This is down from 35% in 1995.

Twenty-five percent of the County's revenues are generated through home rule taxes. The transition report strongly recommended a diversification of revenues to balance the burden more fairly and to shelter the government from major swings in the real estate market.

Fees now represent 29% of the County's revenues. Legislation to increase court fees was enacted this past year and should yield as much as \$16 million dollars. This means the corporate budget will no longer subsidize the Clerk's special purpose funds.

And while we rely on the state and the federal government for many resources, we cannot control the decisions they make. At the very time more and more people are losing their health insurance and turning to the public health system across the country, the federal government is cutting millions from Cook County. This is the single largest component of our shortfall for next year and one I will continue to fight against.

This mix of revenues has served County government well but is subject to outside forces beyond our control. We have been working for a long time on additional revenue streams that would allow us to redirect county funds but those take time and in many cases legislation.

There are several revenue sources that we have pursued and hope to see some movement on in the coming year but could not be responsibly contemplated in this budget.

Legislation initiated by my administration would provide state reimbursement for up to 50% of the daily cost of housing a parole violator. We are hopeful that we will see money appropriated for this purpose in the state's 2007 budget.

The County of Cook enacted an amusement tax in 1997 which the Village of Rosemont has failed to collect. Recently, the court issued an order that the Village needed to begin remitting the tax and determining the amount owed to the County. When this litigation is finally concluded, we expect back taxes and penalties. We have increased the amusement tax revenue estimate by one million dollars in next year's budget as Rosemont has now registered as a tax collector.

Recently, I stood with the Illinois Judges Association in renewing the call for adequate funding from the State of Illinois for the judiciary as it is a function of state government. Our court system costs nearly \$600 million annually. If the state paid for just the judiciary, we could free up nearly \$200 million.

I have challenged the Bureau of Health to become better managers; to improve the billing and collections process; to pro-actively manage overtime; and to constantly improve the quality and efficiency of patient care. And I am calling on all appointed and elected officials to recognize the limitations of our resources and to manage them as if they were their own.

I tell you this to demonstrate that I have done what I believe to be everything possible at this time to keep the government running while remaining sensitive to taxpayers. We will continue to pursue these and other revenue strategies in the coming months.

With that said, today I present to you a 3.1 billion dollar budget for 2006 that meets our obligations in the areas of public health and public safety without asking property owners to shoulder any additional burden.

As I said earlier, each year the budget grows by \$100 million to cover rising expenses in employee healthcare, COLAs and step increases and other benefits. Add to this the reduction in the IGT, increasing requests from the separately elected officials and escalating costs in feeding, housing, caring for and clothing both patients and detainees and you are faced with a \$307 million shortfall. I told my finance team in September to go back and cut wherever possible. Their efforts resulted in adjustments which initially brought the shortfall down to \$95 million.

Make no mistake about it, these cuts will likely anger department heads and elected officials alike. They will see very different numbers today than they submitted months ago. In fact, the shortfall is a combination of two very simple things, one on the expense side and one on the revenue side. We have made reductions to keep the growth on the expense side to well below the rate of inflation. When we started this process, we were \$115 million over on the expense side. By cutting or under funding positions, and further reducing overtime, travel, supplies and training accounts, we brought the growth on the expense side down to \$23 million, only one percent over last year's budget.

We are still in negotiations with our unions seeking more equitable contributions for employee healthcare in line with what other units of government have successfully bargained. This budget provides no new positions. In fact, it eliminates another 86 positions in the General Fund. Since 1995, I have reduced positions in the offices I control by almost 20% while positions in the elected officials have increased.

This budget provides the County Clerk with the \$8 million dollars necessary to fund next year's elections, a responsibility we can not ignore.

On the revenue side, we have incorporated the additional \$1 million expected from the increase in vehicle stickers passed last week as well as our efforts to follow other governments and reduce the collateralization from 110% to 102%. This is expected to yield an additional \$10 million in interest earnings next year.

Over the course of the last several months, we have expected a 70 million dollar reduction in the IGT which represents nearly ten percent of the Bureau of Health's budget. For months, we have been working with our lobbyists, state and federal officials in an effort to soften this blow to our healthcare system. I am pleased to announce today that late on Friday, I spoke with the Governor who indicated the State's commitment to adjust the payment schedule for the IGT yielding us an additional 20 million dollars for 2006. This is obviously good news and provides cash flow relief to further decrease the shortfall to 75 million dollars but our work in this area is not finished. We must put pressure on the federal government to rethink their fiscal policies as we are expecting an additional 30 million dollar cutback next year. If we are unsuccessful in restoring these funds, then our choice is to either replace them or cut service. I think we all agree that our patients come first.

That being said, in order to continue to fulfill our mission, I am proposing a one dollar increase on the cigarette tax to raise the 75 million dollars necessary to fill the gap for 2006. These funds will ensure that our health system stays operational despite the federal government's irresponsible cuts at this critical time for healthcare in our nation.

I am proud of the fact that this budget limits growth to one percent over last year, well below the rate of inflation. I also appreciate that no one likes taxes but the reality is that we have cut expenses to the bone and without some new resources, we will be faced with service cuts, something I cannot support.

If we pledge to work together in the coming year, we can continue to address the challenges that face us and continue to move this government forward.

In addition to understanding the challenges we face, we need to take time to recognize what we have accomplished together.

With the Board's support, we have begun purchasing pharmaceuticals with other units of government which will save a couple million dollars each year. We have entered into a local government energy consortium expected to save more than one million dollars in electricity costs annually.

We have opened the new Domestic Violence Courthouse, our first environmentally responsible building.

We have pledged to step up collections in the Bureau of Health to ensure that we are getting what we can.

We have completed renovations at Division II in response to the Duran Decree. We continue to vigorously fight federal and state funding cutbacks as well as seek other funding avenues for our programs and services.

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We implemented the mail order pharmacy program which helps keep wait time down. And we are moving forward with one of the most aggressive Homeland Security programs in the nation.

Everyone in this room should be proud of what we have accomplished and if we can set aside the rhetoric and replace it with a deep understanding of our responsibility, I am certain we can continue to move forward in 2006.

Thank you may God continue to bless all of us.

JOHN H. STROGER, JR., President

* * * * *

The Message of the President to the Board of Cook County Commissioners was given by President Stroger.

* * * * *

President Stroger then submitted the Executive Budget to the Board of Commissioners for the Fiscal Year 2006, for referral to the Committee on Finance.

Commissioner Daley, seconded by Commissioner Steele, moved that the President's Executive Budget be referred to the Committee on Finance. **The motion carried unanimously.**

PROPOSED ORDINANCE

Submitting a Proposed Ordinance sponsored by

JOHN H. STROGER, JR., President of the Cook County Board of Commissioners

PROPOSED ORDINANCE

**COUNTY OF COOK
AN ORDINANCE TO PROVIDE FOR A TAX ON
THE RETAIL SALE OF CIGARETTES AND TOBACCO PRODUCTS,
AS AMENDED**

WHEREAS, the County of Cook is a home rule unit of local government pursuant to Article VII, section 6(a) of the 1970 Illinois Constitution; and

WHEREAS, pursuant to its home rule powers, the Cook County Board of Commissioners adopted an Ordinance to provide for a tax on the retail sale of cigarettes ("Retail Sale of Cigarettes Tax Ordinance") on June 1, 1980 and has adopted subsequent amendments; and

WHEREAS, the Cook County retail cigarettes tax has been at the same rate since 2004; and

WHEREAS, the Cook County Board of Commissioners wishes to raise the tax imposed upon the retail sale of cigarettes and to expand the Ordinance to include a tax on tobacco products within Cook County in order to discourage the use of tobacco by residents of Cook County and to decrease the illegal consumption of tobacco by juveniles; and

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WHEREAS, Cook County expends significant resources in the treatment of tobacco related illnesses; and

WHEREAS, for the protection of the public health, safety, comfort and welfare and pursuant to its home rule authority, the Cook County Board of Commissioners chooses to amend the Retail Sale of Cigarettes Tax Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF COOK, ILLINOIS, AS FOLLOWS:

The Ordinances and Resolutions of Cook County, Chapter 13, entitled Fiscal Matters and Taxes, is hereby amended as follows:

Section 1. Short Title - Definitions

This Ordinance may be cited as the Cook County Retail Sale of Cigarettes and Tobacco Products Tax Ordinance.

For the purpose of this Ordinance, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section.

"Chewing tobacco" means any leaf tobacco that is not intended to be smoked.

"Cigar" Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette as defined in this Ordinance).

"Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient, or not, and the wrapper of which is made of paper or any other substance or material except tobacco.

"Department" means the Department of Revenue within the Bureau of Finance of the County of Cook.

"Director" means the Director of the Department of Revenue.

"Manufacturer" means any person who makes or fabricates cigarettes, or packs and/or tobacco products and sells them in packages.

"Package" means the original packet, box or container whatsoever used to contain and to convey cigarettes and/or tobacco products to the consumer.

"Person" means, any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees, or other representative, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstances.

"Pipe Tobacco" includes any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

"Retail Tobacco Dealer" means any person who engages in the business of selling cigarettes and/or tobacco products in the County of Cook to a purchaser for use or consumption and not for re-sale in any form.

"Roll-your-own tobacco" includes any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

"Sale," "Re-Sale," "Selling" means any transfer of ownership or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.

"Smokeless tobacco" includes any snuff, chewing tobacco, or other tobacco products not intended to be smoked.

"Snuff" means any finely cut, ground or powdered tobacco that is not intended to be smoked.

"Stamp" means paper or other material with an imprint or decalcomania device thereon, of such size, design, color and denominations as may be prescribed and procured by the Department which, when affixed to a package of cigarettes, shall evidence payment of the tax thereon, as provided by this Ordinance.

"Tobacco Products" includes but is not limited to any cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette wholesale tobacco dealers and manufacturers as defined in this Ordinance.

"Unit" means any division of quantity that may be used as a standard to measure the quantity sold based on length, width, weight such as pounds, ounces and/or grams or volume or some other similar unit of measure, including but not limited to per item.

"Use" means any exercise of a right or power, actual or constructive, and shall include but is not limited to the receipt, storage, or any keeping or retention for any length of time, but shall not include possession for sale by a retail or wholesale tobacco dealer as defined in this Ordinance.

"Wholesale Tobacco Dealer" means any person who engages in the business of selling or supplying cigarettes and/or tobacco products to any person for re-sale in the County of Cook. For the purposes of this Ordinance, wholesale tobacco dealers also include tobacco retailers who are licensed with the State of Illinois (35 ILCS 143/10-20).

Section 2. Tax Imposed - Stamps - Tax Collection

(a) "Cigarettes" A tax at the rate of fifty one hundred (\$0 100 mils) or five ten cents (\$.05 \$.10) per cigarette is hereby imposed upon all cigarettes possessed for sale and upon the use of all cigarettes within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the consumer of said cigarettes. The tax imposed hereby at the rate of fifty one hundred (\$0 100 mils) or five ten cents (\$.05 \$.10) per cigarette shall become in force and effect on April 1, 2004 March 1, 2006. The tax herein levied shall be in addition to any and all other taxes.

(b) "Tobacco Products" A tax at the rates and units of measure stated below is hereby imposed on all tobacco products possessed for sale and upon the use of all tobacco products within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the consumer of said tobacco products. The tax imposed on tobacco products pursuant to the units of measure and tax rates stated below shall become in force and effect on March 1, 2006. The tax herein levied shall be in addition to any and all other taxes.

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Tobacco Products Schedule for Unit of Measure and Various Tax Rates:

	<u>Price Per Cigar</u>	
	<u>Charged By Wholesale</u>	<u>Tax Rate</u>
	<u>Tobacco Dealer</u>	<u>Per Cigar</u>
<u>Cigars</u>	<u>0 - \$1</u>	<u>\$.05 Cents</u>
	<u>\$ 1.01 - \$3.00</u>	<u>\$.15 Cents</u>
	<u>\$ 3.01 - \$6.00</u>	<u>\$.30 Cents</u>
	<u>\$ 6.01 - \$10.00</u>	<u>\$.50 Cents</u>
	<u>\$10.01 - \$20.00</u>	<u>\$1.00 Dollars</u>
	<u>\$20.01 - ></u>	<u>\$1.50 Dollars</u>

Other Tobacco Products Tax Rate and Unit of Measure

<u>Pipe and</u>	
<u>Roll Your Own Tobacco</u>	<u>\$.10 Cents Per Ounce or any fraction thereof.</u>
<u>Smokeless Tobacco</u>	<u>\$.05 Cents Per Ounce or any fraction thereof.</u>
<u>(Snuff, Chewing and</u>	
<u>all other smokeless</u>	
<u>tobacco products)</u>	

(c b) The tax herein levied shall be paid by purchase of tax stamps from the Department, except as otherwise provided in Sections 1-9 (a) and (b) of this Ordinance. It shall be the duty of every wholesale tobacco dealer, before delivering or causing to be delivered any cigarettes to a retail tobacco dealer in the County of Cook to purchase from the Department a tax stamp for each package of cigarettes and to cancel said stamps prior to the delivery of such cigarettes to any retail tobacco dealer in the County of Cook. Said stamps shall be affixed and cancelled in the manner prescribed by rules and regulations of the Department. Any stamp which is defective or unused may be returned to the Department by a wholesale tobacco dealer, who shall thereafter be credited or reimbursed with the amount paid to the Department for such stamps.

(d e) Any wholesale tobacco dealer who shall pay the tax levied by this Ordinance to the Department shall collect the tax from any retail tobacco dealer to whom the sale of said cigarettes is made, and any retail tobacco dealer shall, in turn, then collect the tax from the purchaser of said cigarettes. The tax shall be paid to the person required to collect it as trustee for and on account of the County of Cook.

(e f) It shall be unlawful for any retail tobacco dealer to purchase cigarettes from any person unless each package bears an unmutilated tax stamp affixed thereto and cancelled thereon in the manner required by this Ordinance and the rules and regulations of the Department. Possession by said retail tobacco dealer of cigarettes having no stamp affixed and cancelled (except cigarettes in the possession or control of a retail tobacco dealer at any time from June 1, 1980, through June 30, 1980, the tax on which has been paid to the County Collector, together with a sworn affidavit of the number of cigarettes in the retail tobacco dealer's possession or control at the start of business on June 1, 1980) shall give rise to the *prima facie* presumption that such cigarettes are possessed by him in violation of the provisions of this Ordinance.

(f) Internet and/or mail order purchases; purchases made outside the County. The tax hereby imposed and pursuant to Section 2. (a) of this Ordinance and not otherwise paid prior to use or possession by a person shall be paid to the Department directly by any such person using or possessing cigarettes or tobacco products within the County of Cook. Such purchaser or user shall within 30 days of purchase file a return with the Department of Revenue and pay the tax due under this Ordinance.

In case of failure to file a tax return and pay this tax when due the Department may assess penalties and interest as provided for in the Cook County Uniform Penalty, Interest and Procedures Ordinance.

(g) Except for the provisions which are made in this Ordinance for the collection of the tax imposed herein pursuant to Section 2. (a) upon cigarettes and/or tobacco products possessed for sale and use thereof in the possession of wholesale tobacco or retail dealers on the effective date of this Ordinance, the tax imposed herein, shall be collected by each wholesale tobacco dealer who sells cigarettes and/or tobacco products to:

- (i) a retail dealer doing business in Cook County; or
- (ii) a consumer who purchases cigarettes or tobacco products directly from a wholesale tobacco dealer for delivery in Cook County; or
- (iii) another wholesale tobacco dealer doing business in Cook County that is not holding a valid registration certificate.

(h) If a retail tobacco dealer shall receive cigarettes or tobacco products upon which no tax has been collected by the wholesale tobacco dealer then the retail tobacco dealer shall collect such tax and remit it directly to the Department within thirty (30) days of the receipt of such cigarettes or tobacco products.

Section 3. Rule Making

~~The Department shall make and publish in pamphlet form, for distribution to the public, rules and regulations appropriate to and in furtherance of the purposes of this Ordinance.~~

(a) The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this Ordinance. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices of wholesale tobacco and retail tobacco dealers for collection and remittance of the tax herein levied upon the purchaser of cigarettes and/or other tobacco products.

(b) The Department may appoint wholesale tobacco dealers and any other person within or without the County of Cook as agents for the tax herein levied. The Department is hereby authorized to grant a commission not exceeding one-half of one percent (0.5%) of the tax due to the County of Cook to such agent for services rendered in connection with the tax herein levied, provided said tax is remitted, in full, by the due date.

(c) Within thirty (30) days after the effective date of this Ordinance every wholesale tobacco and retail tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of cigarettes and other tobacco products in their possession or control on March 1, 2006. With said inventory, the wholesale tobacco and/or retail tobacco dealer shall pay to the Cook County Collector the taxes due from the retail sale of all cigarettes and/or tobacco products which were in such wholesale tobacco and/or retail tobacco dealer's possession on March 1, 2006.

Section 4. Tax Stamps - Agents - Used and Unused Stamps

(a) The Department shall contract for and furnish tax stamps of such denominations and quantities as may be necessary for the payment of the tax imposed by this Ordinance, and may, from time to time, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.

(b) The Department may appoint wholesale tobacco dealers of cigarettes and any other person within or without the County as agents to affix stamps to be used in paying the tax hereby imposed and said agent is hereby authorized to appoint other persons in his employ who are to affix said stamps to any cigarettes under his control in the manner prescribed by the rules and regulations promulgated by the Department. Whenever the Department shall sell, consign or deliver to any such agent any such stamps, such agent shall be entitled to receive compensation for his services and expenses in affixing such stamps, and to retain use of the monies to be paid by him for such stamps as a commission. The Department is hereby authorized to prescribe a schedule of commissions not exceeding five percent allowable to such agent for affixing such stamps. Such schedule shall be uniform for each type and denomination of stamp used and may be on a graduated scale with respect to the number of stamps purchased. The Department may, in its discretion, permit an agent to pay for such stamps within thirty (30) days after the date of sale, consignment, or delivery of such stamps to such agent, provided a bond or bank letter of credit satisfactory to the Department and approved as to form and legality by the State's Attorney shall be submitted by said agent to the Department, in an amount equal to the value of such stamps. The Department, with approval from the State's Attorney, shall issue regulations pursuant to Section 3 regarding the use of such bonds or bank letters of credit.

(c) The Department may redeem unused tax stamps lawfully on the possession of any person. No person shall sell or offer for sale any stamp issued under this Ordinance, except by written permission of the Department. The Department may prescribe rules and regulations concerning refunds, sales of stamps and redemption under the provisions of this ordinance.

Section 5. (repealed) Registration of Wholesale Tobacco Dealers

~~Within ten days after the effective date of this Ordinance every retail tobacco dealer doing business in the County of Cook shall file with the Bureau of Administration, on forms prescribed by the Bureau, a sworn inventory of all packages of cigarettes in his possession or control (at the start of business on June 1, 1980). With said inventory, the retail tobacco dealer shall pay to the County Treasurer the taxes for all packages of cigarettes which do not bear a stamp or for which a tax has not been paid as required by this Ordinance.~~

A person becoming a wholesale tobacco dealer after the adoption of this amended Ordinance shall register with the Department within twenty (20) days after the effective date of this Ordinance or commencement of business. On or before the last day of each month, every wholesale tobacco dealer shall file with the Department of Revenue a remittance return and remit all tax due for the preceding calendar month. The return shall be postmarked on or before the last day of the month for which the return is due. Each return shall be used to report the sales of tobacco products and shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made payable to the Cook County Collector.

Section 6. (repealed) Tax Free Sales

~~The Bureau of Administration or any person certified by the Bureau as a deputy or representative may enter the premises during normal business hours of any wholesale or retail tobacco dealer for inspection and examination of property, inventory, books and records for the proper administration of this Ordinance and enforcement of the collection of the tax imposed. It is unlawful for any person to prevent, hinder or interfere with the Bureau of Administration or its duly authorized deputy or representative in the discharge of his duties in the enforcement of this Ordinance.~~

Wholesale tobacco dealers doing business in Cook County shall make tax free sales of cigarettes and/or tobacco products with respect to which they are otherwise required to collect the tax to the following:

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- (a) To another wholesale tobacco dealer holding a valid registration certificate; and
- (b) A wholesale tobacco dealer or a retail tobacco dealer in the event, the selling wholesale tobacco dealer, or its agent, delivers the cigarettes or other tobacco products to a location outside of Cook County.

Section 7. Record of Deliveries Quarterly Return Books and Records to be Kept

(a) “Records of Deliveries” At the time of delivering cigarettes to any person doing business in the County of Cook, it shall be the duty of every wholesale tobacco dealer to make a true triplicate invoice, numbered serially, showing the date of delivery, the number of packages, the number of cigarettes contained therein in each shipment of cigarettes delivered, and the name of the purchaser to whom delivery is made and shall retain one legible copy of the same subject to the use and inspection of the Department for the period of time as provided for in the Cook County Uniform Penalty, Interest and Procedure Ordinance.

(b) “Quarterly Returns” A sworn quarterly cigarette tax return shall be filed by said wholesale tobacco dealer with the Department, on forms prescribed by the Department. The dates upon which said quarterly returns are to be filed shall be provided by rules and regulations promulgated by the Department.

(c) “Other Books and Records” It shall be the duty of all Wholesale Tobacco Dealers, Retail Dealers and Persons required by this Ordinance to collect and/or to pay the taxes herein imposed to keep and maintain all books, papers and records related to all transactions taxable under this Ordinance and to make such records available to the Director on request for inspection, audit and/or copying during regular business hours. Books, papers and records which relate to a return filed or required to be filed with the Department shall be kept for the period as provided for in the Cook County Uniform Penalty, Interest and Procedures Ordinance. The burden shall be on the tax collector and tax payer to keep records which verify the basis for any and all transactions which are claimed to be exempt from taxation pursuant to Section 6 of this Ordinance.

Section 8. Counterfeit Tax Stamps

Every person who shall falsely make, alter, forge or counterfeit any tax stamp, or who, with intent to defraud the County, shall affix or cause to be affixed any counterfeit stamp to any package of cigarettes, knowing said stamp to be counterfeit, shall be charged with forgery under the Illinois Criminal Code and shall be subject to prosecution for such a crime.

Section 9. Single State and County Stamp - Monthly Tax Return

(a) Notwithstanding the provisions of Section 2(b) and (d), and 4(a) of this Ordinance, the Department may provide by regulation that the tax imposed by this Ordinance shall, in the alternative, be collected by means of the issuance and sale of a single tax stamp to be prepared jointly with the Department of Revenue of the State of Illinois (or the City Comptroller of the City of Chicago) evidencing the payment of the tax of imposed by this Ordinance. Toward that end, the Department may make such arrangements and agreements with the Department of Revenue of the State of Illinois (or the City Comptroller of the City of Chicago) as may be required with respect to the method of acquiring, affixing, canceling and the manner of sharing the cost of such joint single tax stamps, and may establish procedures for payment of that portion of the tax revenue collected by the Department of Revenue of the State of Illinois (or the City Comptroller of the City of Chicago) due and payable to the County of Cook, in furtherance of the purposes of this Ordinance. In the event such alternative method as herein provided is utilized, no other method of collecting said tax may be used; however, all other applicable provisions of this Ordinance shall nevertheless remain in full force and effect.

(b) Notwithstanding the provisions of 2(b) and (d), 4(a) and subsection (a) of this section, the Department may provide by regulation that the tax imposed by this Ordinance, in the alternative, shall be collected by means of the filing of a sworn tax return to be prepared and filed by every wholesale tobacco dealer who sells cigarettes for consumption in the County of Cook. Said return shall be filed on a monthly basis and shall contain the same information required by 7(b) of this Ordinance. Said return shall be filed with the Department on or before the fifteenth day of each month stating such other and further information as may be required by the Department, and said return shall be accompanied by a certified check in the amount of the tax due and payable upon such taxable sales made by said wholesale tobacco dealer in the County of Cook during the preceding month. In the event such alternative method is utilized, no other method of collecting said tax may be used; however, all other applicable provisions of this Ordinance shall remain in full force and effect with the exception of the necessity of filing a quarterly tax return as provided in 7(b) of this Ordinance, which shall not be required.

Section 10. Mutilation of Tax Stamps

It is unlawful for any person to mutilate a tax stamp herein required on any package of cigarettes before it is sold by a retail tobacco dealer.

Section ~~42~~ 11. Seizure, Sale and Redemption of Unstamped Cigarettes

Whenever the Department or any of its duly authorized representatives shall discover any cigarettes subject to any tax provided by this Ordinance upon which said tax has not been paid or the stamps affixed and cancelled as herein required, they are hereby authorized and empowered forthwith to seize and take possession of such cigarettes together with any vending machine or receptacle in which they are held for sale which, except for money contained in such vending machine or receptacle, shall thereupon be deemed to be forfeited to the County of Cook. The Department may, within a reasonable time, thereafter, by a public notice given at least five days before the date of the sale, sell such forfeited cigarettes and vending machines or receptacles at public sale and pay the proceeds to the Treasurer of the County of Cook. In the alternative, the Department, on reasonable notice, may permit the person from whom said cigarettes were seized, to redeem the same and any vending machine or receptacle seized therewith, by the payment of the tax due together with a penalty of fifty percent (50%), thereof, and the cost incurred in such proceeding, provided, however, that such seizure and sale or redemption shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this Ordinance.

Section ~~43~~ 12. Deposit of Tax Proceeds

All proceeds resulting from the imposition of the tax under this Ordinance, including penalties, shall be paid to the Treasurer of the County of Cook Department.

Section ~~44~~ 13. Penalty

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Ordinance, upon conviction thereof, shall be punished by a fine of three hundred dollars (\$300.00) for the first offense, and a fine of five hundred dollars (\$500.00) for the second and each subsequent offense in any 180-day period; provided, however, that all actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Civil Practice Act (Ill. Rev. Stat. 1969, Ch. 110, Par. 1, et seq.). Repeated offenses in excess of three within any 180-day period may also be punishable as a misdemeanor by incarceration in the Cook County Department of Corrections for a term not to exceed six months, under the provisions of the Illinois Code of Criminal Procedure (Ill. Rev. Stat. 1969, Ch. 38, Pars. 100-1, et seq.) in a separate proceeding. A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof.

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Section ~~15~~ 14. Severability

~~If any provision of this Ordinance, of the application thereof to any person or circumstances, is held invalid, the remainder of this Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.~~

If any provision of this Ordinance or application thereof to any person or circumstance is held unlawful or otherwise invalid, such invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid application or provision, and to this end each such invalid provision or application of this Ordinance is severable. It is hereby declared to be the intent of the Board of Commissioners that this Ordinance would have been issued had any such unlawful or otherwise invalid provision or application not been included.

Section ~~16~~ 15. Effective Date

This Ordinance, as amended, shall take effect and be in force on ~~April 1, 2004~~ March 1, 2006.

Commissioner Daley, seconded by Commissioner Steele, moved that the Proposed Ordinance be referred to the Committee on Finance. (Comm. No. 274765). **The motion carried unanimously.**

ADJOURNMENT

Commissioner Daley, seconded by Commissioner Silvestri, moved that the Special Meeting do now adjourn.

The motion prevailed and the Special Meeting stood adjourned.

The next regular County Board Meeting is scheduled by law, for Wednesday, December 21, 2005.

County Clerk